Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009

Message Text

CONFIDENTIAL

PAGE 01 USUN N 00791 171847Z
ACTION IO-13

INFO OCT-01 EUR-12 ISO-00 IOE-00 AF-08 ARA-06 EA-07 NEA-10
ACDA-07 CIAE-00 DODE-00 PM-04 INR-07 L-03 NSAE-00
NASA-01 NSC-05 ERDA-05 OES-06 CCO-00 OTPE-00 EB-08
FCC-01 OC-06 USIA-06 COME-00 BIB-01 /117 W
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P R 171749Z MAR 77
FM USMISSION USUN NEW YORK
TO SECSTATE WASHDC PRIORITY 2800
INFO AMEMBASSY MOSCOW

C O N F I D E N T I A L USUN 0791

E.O. 11652: GDS
TAGS: TSPA, UN, AORG
SUBJECT: OUTER SPACE LEGAL SUBCOMMITTEE: DBS CONSULTATIONS

1. USDEL MET WITH UK REPRESENTATIVES (GREENWOOD, DALTON AND BAPTISTE) FOLLOWING OSLSC MEETING MARCH 16 TO DISCUSS CURRENT STATE OF PLAY ON DIRECT BROADCASTING FROM SATELLITES (DBS)AND TO OFFER INFORMAL COMMENTS ON LATEST UK DRAFT ON "ELABORATION OF PRINCIPLES RELATING TO DBS" (POUCHED L/UNA - STOWE).

2. LATEST UK DRAFT CONTINUES TO EMPHASIZE TECHNICAL AND LEGAL IMPLICATIONS OF 1977 WARC, POINTING OUT THAT IN ALL BUT A FEW CASES STATE-TO- STATE BROADCASTING WILL BE "NOT ONLY ILLEGAL BUT IN PRACTICE IMPOSSIBLE," SO THAT "RADICAL RETHINKING IS NOW NECESSARY ON THE QUESTION WHETHER FURTHER DISCUSSION OF PRIOR CONSENT IS NECESSARY IN THE LEGAL SUBCOMMITTEE." USDEL SUGGESTED DRAFT SHOULD AVOID USE OF "ILLEGAL" AND SUBSTITUTE "UNAUTHORIZED" OR "IN BREACH OF THE AGREEMENT" WHERE APPROPRIATE (E.G., PARAS 10 AND 12). UK DEL CONCURRED AND AGREED THAT FOR EDUCATIONAL PURPOSES DRAFT SHOULD EMPHASIZE THE PRACTICAL DIFFICULTIES INVOLVED IN RECEPTION OF UNAUTHORIZED BROADCASTS (I.E., CONFIDENTIAL

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PAGE 02 USUN N 00791 171847Z

NEED FOR A RECEIVER CAPABLE OF TUNING TO SPECIFIC FREQUENCIES USED BY FOREIGN BROADCASTERS, ADDITIONAL POWER REQUIREMENTS, AND THE ABILITY TO AIM ANTENNA ACCURATELY AT SATELLITE IN DIFFERENT ORBITAL POSITION). UK PLANS TO CIRCULATE STATEMENT AS OFFICIAL DOCUMENT END OF THIS WEEK OR EARLY NEXT SO THAT DELEGATIONS CAN SEEK INSTRUCTIONS.

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009

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3. UK DEL ASLO ACCEPTED US SUSSGESTION TO DELETE REFERENCE TO LICENSING IN DRAFT CONSENT PRINCIPLE ATTACHED TO UK STATEMENT, THE TEXT OF WHICH FOLLOWS:

"IN THOSE CASES WHERE DIRECT TELEVISION BROADCASTING BY SATELLITE BETWEEN STATES IS PERMITTED UNDER THE ITU CONVENTION (INCLUDING ITS RADIO REGULATIONS), THE 1977 WORLD AGREEMENT AND ASSOCIATED PLAN ESTABLISHED IN ACCORDANCE WITH THE ITU CONVENTION, AND ANY SUBSEQUENT SIMILAR AGREEMENTS AND PLANS CONCLUDED WITH THE ITU, THE PARTIES CONCERNED SHOULD CONSULT TOGETHER AND ENTER INTO ANY (LICENSING OR OTHER) AGREEMENTS WHICH THEY CONSIDER APPROPRIATE AND WHICH ARE NOT INCOMPATIVLE WITH THESE PRINCIPLES OR WITH THE ABOVE-MENTIONED CONVENTION, REGULATIONS, AGREEMENTS AND PLANS." UK FELT REFERENCE TO "AGREEMENTS" (RATHER THAN CONSULTATIONS) WAS NECESSARY TO MAINTAIN CREDIBILITY OF DRAFT.

4. IN RESPONSE TO U.S. INQUIRY, UK CONFIRMED WILLINNESS INITIALLY TO SUPPORT FRG POSITION REPORTED YESTERDAY THAT NO FURTHER DISCUSSION OR ATTEMPTS TO FORMULATE PRIOR CONSENT PRINCIPLE IS NECESSARY, AND SAID UK WOULD VIEW ITS DRAFT PRINCIPLE (PARA 3) AS FALLBACK POSITION.

5. UK SHOWED US COPY OF VEW DRAFT OF A CANADIAN/SWEDISH PROPOSAL ON "NOTIFICATION, CONSULTATIONS AND AGREEMENT", OBTAINED CONFIDENTIALLY THIS A.M., WHICH PROVIDES AS FOLLOWS: (A) ANY STATE WHICH PROPOSES TO ESTABLISH OR CONFIDENTIAL

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PAGE 03 USUN N 00791 171847Z

AUTHORIZES ESTABLISHMENT OF A DIRECT TV BROADCASTING SERVICE BY MEANS OF ARTIFICIAL EARTH SATELLITES, INTENTIONALLY DIRECTED AT A FOREIGN STATE, SHALL NOTIFIY THAT STATE IN ADVANCE. (B) ANY STATE AT WHICH SUCH ACTIVITIES ARE DIRECTED MAY REQUEST CONSULTAATIONS WITH THE BROADCASTING STATE, WHICH MUST ENTER INTO SUCH CONSULTATIONS WITHOUT DELAY. THE CONSULTATIONS SHALL BE CONDUCTED WITH VIEW TO EXPLORING ALL POSSIBLE MEANS OF MEETING THE INTERESTS OF BOTH THE BROADCASTING AND RECEIVING STATES. (C) ESTABLISHMENT OF DBS SERVICE INTENTIONALLY DIRECTED AT FOREIGN STATE SHALL BE SUBJECT TO AGREEMENT BETWEEN THE BROADCASTING AND RECEIVING STATES. (D) THIS PRINCIPLE IS WITHOUT PREJUDICE TO PROVISIONS OF ITU CONVENTION AND ITU RADIO REGULATIONS AND SHALL NOT APPLY WHERE COVERAGE OF THE TERRITORY OF A FOREIGN STATE RESULTS FROM THE RADIATION OF THE SATELLITE WITHIN LIMITS CONSIDERED TECHNICALLY UNAVOIDABLE UNDER THE RADIO REGULATIONS.

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009

6. DISCUSSION OF THIS PROPOSAL ELICTED CONSENSUS THAT
IT WOULD BE INTERPRETED BY USSR AS REQUIRING PRIOR CONSENT
ON PROGRAM CONTENT AND COMMERCIAL ARRANGEMENTS, SINCE ITU
REGULATIONS ALREADY PROHIBIT INTERNATIONAL BROADCASTING
INTO OTHER STATES WITHOUT PRIOR AGREEMENT ON TECHNICAL
ISSUES. MOREOVER, IN THOSE FEW SITUATIONS WHERE FREQUEN-
CIES HAVE BEEN ALLOCATED TO REGIONAL GROUPS, ARRANGEMENTS
HAVE ALREADY BEEN AGREED TO. UK DEL AGREED THAT WITHOUT
SUBSTANTIAL MODIFICATION, DRAFT WOULD BE UNACCEPTABLE.

7. UK DEL SAID FRG REP RUDOLPH HAS INDICATED FRG COULD
ACCEPT LATEST CANADIAN/SWEDISH FORMULATION IF REFERENCE
TO ITU WERE INSERTED AFFTER "AGREEMENT" IN PARA (C) SO AS
TO CLARIFY TECHNICAL NATURE OF REQUIREMENT. FYI. THIS
STRIKES US AN INCONSISTENT WITH FRG POSITION REPORTED TO
US YESTERDAY BY UK DEL, AND WE HARBOR SOME DOUBT THAT THIS
APPARENT FLEXIBILITY WILL BE BORNE OUT WHEN REMAINDER OF
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PAGE 04 USUN N 00791 171847Z

FRG DEF ARRIVES. END FYI. SWEDES HAVE INDICATED TO UK
DEL THAT THEIR PRIMARY CONCERN IS TO PROTECT NATIONAL
DBS ACTIVITIES BY ACHIEVING AGREEMENT ON INTERNATIONAL
DBS PRINCIPLES; UK PLANS TO POINT OUT THAT SINCE USSR WILL
CONSIDER OVERSPILL FROM NORDIC BEAM AN INTERNATIONAL USE
THEIR DRAFT WILL NOT ADEQUATELY PROTECT THAT CONCERN.
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Message Attributes

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Subject: OUTER SPACE LEGAL SUBCOMMITTEE: DBS CONSULTATIONS
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22 May 2009
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